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OFFICE OF PETITIONS

In re Application of :
Kari Kirjavainen et al :
Application No. 08/981,360 : DECISION ON PETITION
Filed: December 18, 1997 :
Attorney Docket No. U 011574-0 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 13, 2006. A Notice of Abandonment was mailed on November 15, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition currently fails to satisfy item (3) above.

A review of the Notice of Abandonment in this application contains the following statement by the examiner: "Applicant was contacted and has abandoned the case." The statement as worded implies that this application was intentionally abandoned. Therefore, the question of intentional delay is fairly raised by the ambiguous statement such that clarification is in the best interest of all parties. Accordingly, before revival of this application can be effected, petitioner must, in a renewed petition under 37 CFR 1.137(b), clarify for the record as to whether in fact this application was intentionally abandoned. Copies of any communications between petitioner and his client may be submitted as evidence to support a finding that there was no intent to abandon this application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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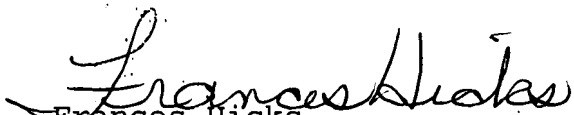
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The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions